

AUG 30 2004

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Facsimile (972) 367-2008**Facsimile Cover Sheet**

To: Commissioner for Patents for Examiner Clifford H. Knoll Group Art Unit 2112	Facsimile No.: 703/872-9306
From: Rebecca Clayton Legal Assistant to Stephen J. Walder, Jr.	No. of Pages Including Cover Shct: 4
<p><b>Message:</b></p> <p>Enclosed herewith:</p> <ul style="list-style-type: none"> <li>• Transmittal Document; and</li> <li>• Supplemental Reply.</li> </ul>	
<p><b>Re: Application No. 09/833,417</b> Attorney Docket No: AUS920000868US1</p>	
<p>Date: Monday, August 30, 2004</p>	
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 30 2004

In re application of: Browning et al.

§ Group Art Unit: 2112

Serial No.: 09/833,417

§ Examiner: Knoll, Clifford H.

Filed: April 12, 2001

§ Attorney Docket No.: AUS920000868US1

**For: Apparatus, Method and  
Computer Program Product for  
Converting Simple Locks in a  
Multiprocessor**

**35525**  
PATENT TRADEMARK OFFICE  
CUSTOMER NUMBER

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 on August 30, 2004.

By:

*Rebecca Clayton*  
Rebecca Clayton

**TRANSMITTAL DOCUMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

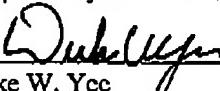
Sir:

ENCLOSED HEREWITH:

- Supplemental Reply.

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

Respectfully submitted,

  
 Duke W. Yee  
 Registration No. 34,285  
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 (972) 367-2001  
 ATTORNEY FOR APPLICANTS

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re application: Browning et al.

AUG 30 2004

Serial No.: 09/833,417

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9306 on August 30, 2004.

By: Rebecca Clayton  
Rebecca Clayton

SUPPLEMENTAL REPLY

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

In an August 27, 2004 telephone interview, Examiner Knoll indicated that he was planning to issue a rejection under 35 U.S.C. § 103(a) based on U.S. Patent No. 6,473,819. However, Examiner Knoll noted that this rejection may be overcome by a statement that the reference is not prior art under 35 U.S.C. § 103(c) and requested that Applicants submit such a statement in order to expedite prosecution of the application.

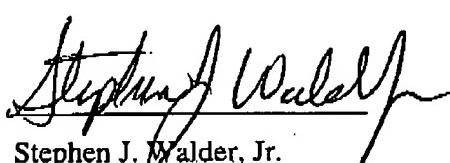
Examiner Knoll indicated that if such a statement were placed in the record, the application would be in condition for allowance.

Accordingly, Applicants respectfully submit that U.S. Patent No. 6,473,819 is not prior art under 35 U.S.C. § 103(a) because U.S. Patent No. 6,473,819 falls within the exception set forth in 35 U.S.C. § 103(c). That is, U.S. Patent No. 6,473,819 qualifies as prior art only under 35 U.S.C. § 102(e) and the subject matter of U.S. Patent No. 6,473,819 and the claimed invention were, at the time the present invention was made, owned by the same person or subject to an obligation of assignment to the same person, i.e. International Business Machines Corporation. Furthermore, the present application was filed on or after November 29, 1999, the effective date of 35 U.S.C. § 103(c).

Therefore, U.S. Patent No. 6,473,819 cannot be used as prior art under 35 U.S.C. § 103(a). Accordingly, Applicants respectfully request allowance of the present application in view of Examiner Knoll's statements during the August 27, 2004 telephone interview.

Respectfully submitted,

DATE: August 30, 2004



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